

**Before the  
Federal Communications Commission  
Washington, D.C.**

In the matter of	)	
	)	
Rules and Regulations Implementing the	)	
Telephone Consumer Protection Act of 1991	)	CG Docket Number 02-278
	)	
	)	
Petition for Declaratory Ruling of	)	
Credit Union National Association	)	

REPLY COMMENTS

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November 21, 2017

## **Introduction and Summary**

These reply comments are to the Petition for Declaratory Ruling filed by the Credit Union National Association (CUNA)<sup>1</sup>, which I oppose.

I comment as a telephone consumer. I am a member of a credit union and a customer of commercial banks.

## **Cell phones are different from land lines**

CUNA, in its petition<sup>2</sup>, with the support of comments from other credit unions<sup>3</sup>, asks the commission to treat cell phones the same as wired residential phones because many people do not use wired phones and because many cell phone plans have unlimited voice calls and text messages.

Although many cell phone plans have unlimited calls and texts, there are still many people who will have to pay for every call or every text to their cell phone.<sup>4</sup> Unless the caller can determine whether the recipient of a call or text is using an unlimited plan, there is the risk that a call may be made to a cell phone user who will incur cost. In fact, CUNA has pointed out this difficulty in a previous *ex-parte* meeting.<sup>5</sup>

Cell phones are also used in cars; drivers will have to (or should!) pull off the road to answer a phone call or to read a text. This imposes a burden on recipients who must answer or reply to the call or text because it may be related to a meeting that the consumer is driving to.

The commission's rules should continue to treat cell phones differently from wired residential telephones.

## **Although the ownership and governance are different, credit unions are like commercial banks**

CUNA<sup>6</sup> and individual credit unions<sup>7</sup> claim that credit unions are unique in their relationship with their customer/members.

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<sup>1</sup> Petition for Declaratory Ruling, filed on September 29, 2017, by the Credit Union National Association (CUNA) to docket CG 02-278 ("petition")

<sup>2</sup> See Petition at 9

<sup>3</sup> See e.g. Comments of American Airlines Federal Credit Union (AAFCU Comments) at 2; Comments of TTCU Federal Credit Union at 1

<sup>4</sup> See e.g. Petition at ii and 10; Reply Comments of Insights Association at 3

<sup>4</sup> *Ex parte* notice from CUNA, March 22, 2017 at 2

<sup>6</sup> Petition at 5

<sup>7</sup> See e.g. AAFCU Comments at 2; Credit Union Association of the Dakotas comments at 2

Both commercial banks (investor owned, for profit) and credit unions are similar in that both offer checking accounts, loans, and other financial services. Both credit unions and commercial bank have owners who select the board of directors and manage the institution. The owners of credit unions are their customers; the owners of commercial banks are their investors. Both types of institutions may want to be able to contact the owners regarding governance issues such as annual meetings. Both types of institutions also may want to contact their customers regarding educational and other types of commercial issues.

### **Credit unions can ask for prior express consent**

CUNA requests that the Commission exempt their “informational” calls from the TCPA’s “prior express consent” requirement.<sup>8</sup>

CUNA’s request is not necessary. Credit unions, like other financial institutions, can easily ask their members for prior express consent that the credit unions to send messages to their members. For example, credit unions can have space on their account applications or other paperwork to ask the member if they want to receive communications about governance meeting or votes, educational information, or sales information and if such communications is to be by phone, text, or email. Like other financial institutions, credit unions mail statements to members that can contain the solicitation for express consent. A similar request for permission can be on the credit union’s website or in email communication from the credit union to the member. A response to the website or email should require verification by way of email, text message, or call to the number or email address provided by the member.

### **Conclusion**

I respectfully request the Commission to deny CUNA’s petition and to allow calls to cell phones only when there is prior express permission from the credit union’s member.

Respectfully submitted,

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November 21, 2017

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<sup>8</sup> Petition at 1